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Hesham Badawi

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

No. CR-07-0804 VRW

vs.

**DEFENDANT'S SENTENCING
MEMORANDUM**

HESHAM BADAWI,
Defendant.

Date: April 24, 2008

Time: 1:30 p.m.

Dept.: Judge V. Walker

INTRODUCTION

Defendant Hesham Badawi stands convicted by his plea of one count of conducting an unlicensed money transmitting business in violation of 18 U.S.C. § 1960. The defendant agrees with the guideline calculations that are set forth in the pre-sentence investigative report but writes separately in this sentencing memorandum to bring certain matters to the Court's attention which pertain to the appropriate sentence to be imposed in this case.

SENTENCING CONSIDERATIONS

1. Defendant's cooperation

Not contained in the pre-sentence report is the degree to which Mr. Badawi cooperated with the agents in the investigation in this case. This is not a criticism of the

1 probation officer who prepared the report, particularly since the agreed-upon guideline
2 calculations rendered moot any consideration of a sentence reduction under U.S.S.G. § 5K1.1 for
3 substantial cooperation. Nonetheless the Court should be aware of Mr. Badawi's cooperation.

4 Mr. Badawi first learned of the investigation in this case when federal officers
5 executed a search warrant at his office and his home. Following the search, Mr. Badawi talked
6 with the officers for many hours about his money transmitting business. When Mr. Badawi
7 thereafter obtained counsel, conversations between several of the agents and Mr. Badawi
8 continued and included detailed discussions about the nature and extent of Mr. Badawi's
9 business. At one point, at the request of the agents, Mr. Badawi and his counsel met at the San
10 Francisco FBI Office with agents from South Korea who had an interest in persons and
11 businesses to whom Mr. Badawi had sent money in South Korea as part of his money
12 transmitting business.

13 Ultimately the agents requested that Mr. Badawi act proactively in essentially an
14 undercover capacity to lure persons of interest to the agents into transactions that could form the
15 basis for further investigations and possible charges. When Mr. Badawi expressed his willingness
16 to tell the agents what he knew but not to work for them in creating or pursuing other criminal
17 leads, the relationship ended.

18 In my view, the above is a relevant consideration under 18 U.S.C. § 3553 in that it
19 shows Mr. Badawi to be a law abiding person who committed what amounts to a status offense.
20 There is certainly no need to impose a sentence to deter Mr. Badawi from committing further
21 crimes.

22 2. Financial Conditions of Sentence

23 The recommendation of the probation report is that Mr. Badawi be ordered to pay
24 a fine of \$2500.00. Based on the amount of funds that Mr. Badawi has forfeited, \$65,992.72, Mr.
25 Badawi submits that he has already suffered a substantial enough financial penalty without
26 adding a fine to it as well. As explained in the pre-sentence report, paragraph 26, the amount of
27 forfeiture already equals or exceeds his total profit from operating the money transmitting
28 business. Further punishment in this regard is not necessary.

